

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE SEIZURE OF THE
MONIES AND CONTENTS OF FIFTH THIRD
BANK CD ACCOUNT 0380640212247, et al.,

SCHEDULING ORDER

05-MJ-596
05-MJ-598
05-MJ-599
05-MJ-600
05-MJ-602

By motion filed January 20, 2006, petitioner, Constance J. Roeder ("petitioner"), moves for the return of certain properties, seized by the Government pursuant to seizure warrants issued on December 5, 2005. Petitioner seeks a hearing and return of the property pursuant to FED. R. CRIM. P. 41(g). I request the Government to respond, within 20 days of entry of this order, as to certain procedural issues. I leave for another day filings concerning the substantive arguments raised by petitioner as to the alleged impropriety of the seizures.

At this time, I would like the Government to respond to the following:

1. Do you agree that petitioner has the right to a "prompt hearing" to test the probable cause for issuance of the seizure warrants;
2. Does the Government have a position, one way or the other, as to whether the proceeding should be before the District Court or before the issuing judge, United States Magistrate Judge Jonathan W. Feldman;
3. Does the Government concede that it has the burden of establishing the continued right to maintain the property;

4. Has the Government commenced, or does it intend to commence, forfeiture proceedings concerning the assets covered by the petition;
5. If the Government contends that petitioner is not entitled to a "prompt" probable cause hearing, what is the authority for that and does the Government intend to stay action on the petition, and on what basis.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
February 1, 2006.